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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/727,332

12/02/2003

Wei Yen

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EXAMINER

HOMAYOUNMEHR, FARID

ART UNIT

PAPER NUMBER

2439

MAIL DATE

DELIVERY MODE

05/11/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/727,332	Applicant(s) YEN ET AL.	
	Examiner Farid Homayounmehr	Art Unit 2439	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 2 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-17, 19-21, 25-65, 69-84, 86, 87 and 89-91.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Kambiz Zand/
 Supervisory Patent Examiner, Art Unit 2434

Farid Homayounmehr
 Examiner
 Art Unit: 2439

Applicant argues that Siann does not teach text-based activation code. However, Siann paragraph 43 suggests using SMS to deliver the data. The rejection of claim 6 includes this concept.

Applicant argues that Siann does not provide access data that is suitable for human reading or entry. However, as mentioned above, Siann teaches use of SMS to transmit information to the user. SMS messages are suitable for human reading and therefore entry if necessary. In addition, sending access control information, such as a password or a CD key was well-known in the art at the time of invention, and the one skilled in art would understand that a text-based activation code has the purpose to be entered to allow access to data, such as a movie, or application software.

Applicant also argues that the activation code of Siann is not part of a whole license. However, a general description of a license is something that allows a user to access data. The activation code of Siann does just that. Applicant also argues that Examiner's assertion is with citing prior art, However, Examiner cited paragraph 39 of Siann, and therefore, the evidence is readily provided.

With respect to Examiner's citation of paragraphs 97 and 98 of Siann, Applicant argues that using access data to decrypt content and access rules to determine rights are distinct, but does not explain how this would traverse the rejection. In addition, user's ability to decrypt the content is necessary to access the content. Therefore, the right of user to access data is dependent on having the correct access key. Therefore, the two concepts may be distinct, but they are totally related to one another in the context of media access.

Applicant argues that paragraph 100 does not teach generation the access data. However, paragraph 100 states that "...storage device 436 contains tables of parameters which include an identification part and a cryptographic key part, such that both are used to deliver access data and access rules, and other information to the media player..." This clearly shows that access data and access rules are generated. It also shows that access data is delivered to media player, and it also shows that identification part is part of access data. Applicant also argues that it is not true that this information must be received at the device that generates the access activation code so that it could be used in generation of the code. However, the device that generates the access code must have the information necessary to generate the code. Therefore, unlike what is argued by the applicant, it is true that this information must be received at the device that generates the access activation code so that it could be used in generation of the code.

Regarding Examiner assertion that Tatebayashi (Tat) discloses at col. 5, line 64 to col. 6, line 10, "an embodiment where the user has to enter part of a key so the access to the content is allowed.", applicant simply states that Tatebayashi et al. disclose that a user can enter a password. It is not understood how this traverses the rejection. Moreover, the cited part does not talk about user entering a password. The cited part clearly shows how to generate a key, for example transformed key, for a user key and another key. Therefore, part of the key (user key) must be provided so the transformed key (whose a part is the user key) can be generated.

Applicant further argues that based on Examiner's logic the user never communicates at least part of the text-based activation code to the playback device. However, Examiner's rejection shows the combination of Siann and Tat communicates at least part of the text-based activation code to the playback device. The fact that before the code is communicated to the playback device, it was transmitted to a communication device in a path not including the playback device creates no conflict, as the code, or at least part of it is communicated to the communication device. Before this code is communicated to the playback device, it is further processed to include additional information (as shown in the rejection in connection with Tat), and then transmitted to the playback device.

With regards to claim 12, applicant argues that the cited paragraphs say nothing about a licensing message suitable to be sent from the communication device. However, the cited paragraphs clearly show that the content is protected content, as the content provider is compensated for providing the content. The entire teaching of Siann is about control access to this kind of content. Therefore, the messages sent from the communication device are used to allow access to the protected content. This is the meaning of licensing.

With regards to claim 25, applicant argues that Siann's suggestion to use SMS is just a list that is boilerplate in appearance and Siann never suggests an embodiment using SMS that even make sense. However, Siann suggests SMS as a method of transmission, and applicant provides no argument or reason why such suggestion makes no sense.

Applicant further argues: "It is not well-known to use part of a text-based activation code sent via SMS (or, more generally, a communication channel that does not include the playback device) and use it as a cryptographic signature for content on the playback device." However, using part of a text-based activation code sent via SMS (or, more generally, a communication channel that does not include the playback device) to verify if access to content should be allowed is shown to be taught by the combination of Siann and Tat. It is just the use of digital signatures as verification means that is the subject of the Official notice. The activation code is the secret that enables access control in the system taught by Siann and Tat. Digital signatures are access control mechanisms which use a secret to determine access. Once the secret is established, use of digital secrets or other access control mechanisms would be well-known and obvious to the one skilled in art.

Accordingly, applicant's argument relative to allowability of the pending claims is non-persuasive.

